

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GEORGE R. SZYMANSKI,

Plaintiff,

v.

**THOMAS SACCHETTA, GERALD
BALDINO, JR., and SACCHETTA AND
BALDINO,**

Defendants.

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CIVIL ACTION

NO. 2:10-cv-02336-JD

ORDER

AND NOW, this 7th day of February, 2011, upon consideration of Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. No. 10, filed July 13, 2010) and Plaintiff's Memorandum of Law in Opposition to the Defendants' Motion to Dismiss (Doc. No. 12, filed Sept. 10, 2010), for the reasons set forth in the Memorandum dated February 7, 2011, **IT IS ORDERED** that Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) is **GRANTED IN PART AND DENIED IN PART**, as follows:

1. That part of the defendants' motion which seeks dismissal of Count III of the Complaint, a claim alleging unjust enrichment, is **GRANTED WITH PREJUDICE**;

2. That part of the defendants' motion which seeks dismissal of Count I of the Complaint, a claim alleging breach of contract, is **GRANTED WITHOUT PREJUDICE** to plaintiff's right to file an amended complaint within twenty days of the entry of this Order, if warranted by the facts; and

3. The defendants' motion is **DENIED** in all other respects.

BY THE COURT:

/s/ Hon. Jan E. DuBois

JAN E. DUBOIS, J.